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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Andrea Fumagalli

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3297

7590

07/27/2005

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EXAMINER

PHAN, HANH

ART UNIT

PAPER NUMBER

2638

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/003,005

Applicant(s)

FUMAGALLI ET AL.

Examiner

Hanh Phan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This Office Action is responsive to the Amendment filed on 04/07/2005.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 5-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

-Claim 5 recites the limitation "within **the wavelength**" in line 13. There is insufficient antecedent basis for this limitation in the claim.

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Xiong et al (US Patent No. 6,671,256) in view of Graves et al (US Patent No. 6,741,572).

Regarding claims 1, 8 and 13, referring to Figures 2, 3, 5 and 7, Xiong teaches a method for configuring lightpaths within an optical network (see Figs. 2 and 7), comprising:

storing a plurality of requests (i.e., data channel reservation request message DCR-Request 705, Figs. 2 and 7, col. 3, lines 55-67 and col. 4, lines 1-66) for a lightpath between a source node (i.e., electronic ingress edge router 105, Figs. 2 and 7) in the optical network and a destination node (i.e., electronic egress edge router 115, Figs. 2 and 7) in the optical network in a queue at the source node (col. 7, lines 21-67 and col. 8, lines 65);

receiving a token (i.e., DCR-acknowledgement message 710, Figs. 2 and 7) at the source node of the optical network indicating an available space within a wavelength;

selecting a request from the plurality of requests in the queue of the source node responsive to a best fit window protocol (col. 7, lines 52-67 and col. 8, lines 1-65); and

establishing, responsive to selection of the request, the lightpath between the source node and the destination node (see Figs. 2 and 7).

Xiong differs from claims 1, 8 and 13 in that he fails to teach the token is adapted to bear availability information related to the available space within the wavelength and broadcast the availability information across the optical network and based upon the availability information, issuing by the source node of a reservation request. However, Graves in US Patent No. 6,741,572 teaches the token is adapted to bear availability information related to the available space within the wavelength and broadcast the

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availability information across the optical network and based upon the availability information, issuing by the source node of a reservation request (see Fig. 6A, col. 14, lines 23-67, col. 15, lines 1-67 and col. 16, lines 1-42). Therefore, it would have been obvious to one having skill in the art at the time the invention was made to incorporate the token is adapted to bear availability information related to the available space within the wavelength and broadcast the availability information across the optical network and based upon the availability information, issuing by the source node of a reservation request as taught by Graves in the system of Xiong. One of ordinary skill in the art would have been motivated to do this since Graves suggests in column 14, lines 23-67, col. 15, lines 1-67 and col. 16, lines 1-42 that using such 14, lines 23-67, col. 15, lines 1-67 and col. 16, lines 1-42 have advantage of allowing providing a communication network having architectures for a high performance data networks.

Regarding claims 2, 6, 9 and 14, the combination of Xiong and Graves teaches the step of: updating the token to indicate the wavelength supporting the lightpath is unavailable and forwarding the updated token to the destination node (col. 8 Xiong, lines 14-20 and col. 14 of Graves, lines 23-67, col. 15, lines 1-67 and col. 16, lines 1-42).

Regarding claims 3, 10 and 15, the combination of Xiong and Graves teaches comparing the space available on the wavelength to the plurality of requests within the queue of the source node and selecting a request having a longest span from the queue that fits within the space available on the wavelength (col. 7 of Xiong, lines 52-67 and

col. 8, lines 1-65 and col. 14 of Graves, lines 23-67, col. 15, lines 1-67 and col. 16, lines 1-42).

Regarding claims 4, 5, 7, 11, 12 and 16, the combination of Xiong and Graves teaches determining whether a soft deadline associated with any request in the queue has expired; removing any request having an expired soft deadline from the queue; and selecting a removed request having an oldest expired soft deadline that fits within the space available on the wavelength (col. 9 of Xiong, lines 30-37 and col. 14 of Graves, lines 23-67, col. 15, lines 1-67 and col. 16, lines 1-42).

### ***Response to Arguments***

6. Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh Phan whose telephone number is (571)272-3035.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Vanderpuye, can be reached on (571)272-3078. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-4700.

  
**HANH PHAN**  
**PRIMARY EXAMINER**